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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,036	06/23/2003	Matthew McQuaid	61022.00001	9535
30256	7590	02/22/2005	EXAMINER	
SQUIRE, SANDERS & DEMPSEY L.L.P			MARMOR II, CHARLES ALAN	
600 HANSEN WAY			ART UNIT	
PALO ALTO, CA 94304-1043			PAPER NUMBER	
			3736	

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/602,036		MCQUAID, MATTHEW	
	Examiner		Art Unit	
	Charles A. Marmor, II		3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 and 23-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14, 21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>05172004; 01122004</u> . | 6) <input checked="" type="checkbox"/> Other: <u>IDS 12102003</u> . |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Invention I, Claims 1-14, 21 and 22, in the reply filed on January 24, 2005 is acknowledged. Claims 15-20 and 23-28 are withdrawn from further consideration.

Drawings

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "120b" as included in Figures 15-18 and 20-22. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The disclosure is objected to because of the following informalities:
 - a. At page 6, line 19, “preferable” apparently should read --preferably--.
 - b. At page 7, line 23, “of the” (second occurrence) should be deleted.

Appropriate correction is required.

4. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Objections

5. Claim 6 is objected to because of the following informalities: in line 4, “plan” apparently should read --plane--. Appropriate correction is required.
6. Claim 7 is objected to because of the following informalities: in line 2, “of the” (second occurrence) apparently should be deleted. Appropriate correction is required.
7. Claim 13 is objected to because of the following informalities: in line 2, --the-- apparently should be inserted before “attachment”. Appropriate correction is required.
8. Claim 14 is objected to because of the following informalities: in line 58, “threably” apparently should read --threadably--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 7, 12 and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 7 recites the limitation "the gripping edges" in line 4. There is insufficient antecedent basis for this limitation in the claim. No "gripping edges" are recited in the claims prior to this recitation.

Claim 7 recites the limitation "the upper edges of the gripping ridges" in lines 5-6. There is insufficient antecedent basis for this limitation in the claim. The gripping ridges are not defined as having "upper edges" in the claims prior to this recitation.

Claim 12 recites the limitation "the upper region of the outer edge" in line 2. There is insufficient antecedent basis for this limitation in the claim. There is no upper region recited in the claims prior to this recitation.

Claim 14 recites the limitation "the gripping edges" in line 18. There is insufficient antecedent basis for this limitation in the claim. No "gripping edges" are recited in the claims prior to this recitation.

Claim 14 recites the limitation "the upper edges of the gripping ridges" in lines 19-20. There is insufficient antecedent basis for this limitation in the claim. The gripping ridges are not defined as having "upper edges" in the claims prior to this recitation.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-6, 10-13, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Lay ('302). Lay teaches a container attachment that is capable of receiving and capturing a fluid specimen. The attachment includes an attachment ring (7) adapted for attachment to a specimen container (35) and a peripheral wall (17) extending from the attachment ring. The peripheral wall (17) has a base, an outer edge, and areas that may be considered receiving (25) and capturing (23) areas. The outer edge of the peripheral wall includes a *generally* U-shaped region (26) extending towards the base of the peripheral wall that is located in the “receiving area” (25) of the peripheral wall. A portion of the “capturing area” (23) of the peripheral wall faces the generally U-shaped receiving space (26) of the “receiving area” (25) of the peripheral wall. The attachment ring has a threaded portion (43) on an inner side of the attachment ring. The attachment ring has a snap on mechanism (63). An outer side of the attachment ring has a plurality of elongated gripping ridges that are generally evenly spaced apart around the outer side of the attachment ring, such that the longitudinal axes of the gripping ridges extend substantially perpendicular to a plane in which the attachment ring lies (see Figure 5). The U-shaped region of the outer edge of the peripheral wall has an arcuate lower portion positioned towards the base of the peripheral wall. The U-shaped region of the outer edge of the peripheral wall has a

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generally smooth and rounded exterior surface. The outer edge of the peripheral wall has a pair of side regions extending between the receiving and capturing areas of the peripheral wall. The side regions slope downwards from the upper region of the outer edge of the peripheral wall to the U-shaped region of the outer edge of the peripheral wall (see Figure 6). A specimen container (35) may be coupled to the attachment ring. The “receiving area” (25) has a lower height than the “capture area” (23) with the sidewalls sloping downwards from the “capture area” towards the “receiving area” to provide a gradual transition between the “capture” and “receiving” areas (see Figs. 5 and 6).

13. Claims 1, 10-13, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Ehrenkranz ('878). Ehrenkranz teaches a specimen container attachment that is capable of receiving and capturing a fluid specimen. The attachment includes an attachment ring (12) adapted for attachment to a specimen container (14) and a peripheral wall extending from the attachment ring. The peripheral wall has a base, an outer edge, and areas that may be considered receiving (20) and capturing (18) areas. The outer edge of the peripheral wall includes a *generally* U-shaped region (see Figures 1-3b) extending towards the base of the peripheral wall that is located in the “receiving area” (20) of the peripheral wall. A portion of the “capturing area” (18) of the peripheral wall faces the generally U-shaped receiving space of the “receiving area” (20) of the peripheral wall. The U-shaped region of the outer edge of the peripheral wall has an arcuate lower portion positioned towards the base of the peripheral wall. The U-shaped region of the outer edge of the peripheral wall has a generally smooth and rounded exterior surface. The outer edge of the peripheral wall has a pair of side regions extending between the

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receiving and capturing areas of the peripheral wall. The side regions slope downwards from the upper region of the outer edge of the peripheral wall to the U-shaped region of the outer edge of the peripheral wall. A specimen container (14) may be coupled to the attachment ring. The “receiving area” (20) has a lower height than the “capture area” (18) with the sidewalls sloping downwards from the “capture area” towards the “receiving area” to provide a gradual transition between the “capture” and “receiving” areas.

14. Claims 1, 4-13, 21 and 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Fleming ('385). Fleming teaches a container attachment that is capable of receiving and capturing a fluid specimen. The attachment includes an attachment ring (12) adapted for attachment to a specimen container (10) and a peripheral wall (15) extending from the attachment ring. The peripheral wall (15) has a base, an outer edge, and areas that may be considered receiving (18) and capturing (17) areas. The outer edge of the peripheral wall includes a *generally* U-shaped region (see Figure 1) extending towards the base of the peripheral wall that is located in the “receiving area” (18) of the peripheral wall. A portion of the “capturing area” (17) of the peripheral wall faces the generally U-shaped receiving space of the “receiving area” (18) of the peripheral wall. An outer side (13) of the attachment ring has a plurality of elongated gripping ridges that are generally evenly spaced apart around the outer side of the attachment ring, such that the longitudinal axes of the gripping ridges extend substantially perpendicular to a plane in which the attachment ring lies (see Figures 1 and 2). The lower ends of the gripping ridges are positioned adjacent a bottom edge of the attachment ring which may include an annular lip (14, see Fig. 3). The upper ends of the gripping edges are positioned towards and spaced apart from a

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top edge of the attachment ring (see Figs. 1 and 2), such that the upper edges of the gripping ridges lie in a plane substantially parallel to the plane of the top edge of the attachment ring. The U-shaped region of the outer edge of the peripheral wall has an arcuate lower portion positioned towards the base of the peripheral wall (see Fig. 1). The U-shaped region of the outer edge of the peripheral wall has a generally smooth and rounded exterior surface. The outer edge of the peripheral wall has a pair of side regions extending between the receiving and capturing areas of the peripheral wall. The side regions slope downwards from the upper region of the outer edge of the peripheral wall to the U-shaped region of the outer edge of the peripheral wall. A specimen container (10) may be coupled to the attachment ring. The “receiving area” (18) has a lower height than the “capture area” (17) with the sidewalls sloping downwards from the “capture area” towards the “receiving area” to provide a gradual transition between the “capture” and “receiving” areas (see Figs. 1-3).

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McQuaid ('425) teach a biological fluid collection device. Nakao et al. ('103) teach a urinary collecting unit. Couto ('226) teaches a nozzle for a beverage can. Hopkins ('863) teaches a bed urinal. Livingstone ('402) teaches an adapter for a fluid container. Giblin et al. ('076) teach a fitment for a bottle having a U-shaped region in the outer edge of the peripheral wall.

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles A. Marmor, II whose telephone number is (571) 272-4730. The examiner can normally be reached on M-TH (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on (571) 272-4726. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Charles A. Marmor, II
Primary Examiner
Art Unit 3736

cam
February 11, 2005